



Corporate Europe Observatory complaint on EU Industry Advisory Group
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What is the decision or matter about which you complain? When did you become aware of it? Add annexes if necessary:

This is a joint complaint with Corporate Europe Observatory and Food and Water Action Europe. The original complaint was made by Olivier Hoedeman, Corporate Europe Observatory. In September 2022 the European Commission established the EU Energy Platform Industry Advisory Group (EPIAG, also referred to as IAG), an industry-only expert group, with the purpose to assist in delivering “on the objectives identified in the RePowerEU Communication and subsequent Plan”. On February 23 2023, Corporate Europe Observatory (CEO) sent a formal complaint to the European Commission, pointing out that the IAG violates the Commission’s own “commitments to (and rules around) balance and avoidance of conflicts of interest”. Our complaint called for the dissolution of the IAG and for an overhaul of the Commission’s rules and practices around the creation of advisory groups in order to prevent a repetition in the future. Following several reminders from our side, the Commission replied with a letter dated May 12th ((Ares(2023)3351172)), which ignored numerous arguments provided in our complaint, defended the composition of the IAG and rejected our demands for dissolution of the groups and for an overhaul of rules and practices regarding the creation of advisory groups. The EU Energy Platform subsequently created AggregateEU to aggregate European gas demand and connect buyers to sellers in response to the gas shortage as a result of Russia’s invasion of Ukraine. We have since been informed that the Commission is trying to turn Aggregate EU, which was initially an ad-hoc initiative in the context of the energy crisis in Autumn 2022, into a permanent mechanism with rolling applications, expanding its remit from fossil gas to all gases, including hydrogen and biogas. In a CSO meeting around the EU Energy Platform the Commission also confirmed that human rights violations or the environmental and climate impact of gas would not be assessed or play a role in the platform and the matching of sellers and buyers of LNG This would presumably include the IAG and its broader remit with regards to REPowerEU and recommending new gas infrastructure. DG ENER has also “taken the initiative to set up a dedicated working group on gas consuming industries’ feedback on ‘AggregateEU’, as a sub-group to the IAG,” further cementing the industry-only nature of the group.

What do you consider that the EU institution or body has done wrong?:

In September 2022, the EU Energy Platform Industry Advisory Group appeared in the Commission's register of expert groups with a call for applications for members that was open only to companies. The industry-only IAG violates the commitments made in the Commission's political guidelines which state that "Members of the Commission should seek to ensure an appropriate balance and representativeness in the stakeholders they meet". The IAG also violates the Commission's horizontal rules on expert groups, in which the Commission made a commitment to strive for a balance in the composition of these groups. We would also like to remind of the Commission's letter to the civil society coalition ALTER-EU in spring 2020, in which the Commission stated it "always ensured that participants have an equal chance to express their views and that different interests are counterbalanced". This was in response to criticism of ENTSOG (another industry body advising the Commission); the Commission stressed that civil society groups were given observer status in ENTSOG. This has clearly not been the case for the IAG, and observer status could be characterised as tokenistic. The set-up of the IAG is inherently problematic: it is an officially endorsed body for influencing EU energy policy that solely welcomes companies. This creates unacceptable conflicts of interest as commercial interests get the exclusive opportunity to shape EU policy as well as regulatory and financial decisions. There is also a direct financial conflict of interest, as the companies in the IAG advising the European Commission on where to source alternative sources of gas have direct commercial interests themselves in the exploitation of that gas, benefiting financially. Some organisations are both sellers and buyers, again presenting a conflict of interest. These commercial interests, moreover, are at odds with meeting EU Climate targets and the public interest in a rapid phase-out of fossil fuels, a stated objective of the EU's European Green Deal. Not only is membership of the EU Energy Platform Industry Advisory Group open solely to companies, also 'observer' status excludes civil society groups and academic institutions from taking part. The eleven observers invited by the Commission include lobby associations with fossil fuel members such as Eurogas, Hydrogen Europe, Gas Infrastructure Europe (GIE), the European Network of Transmission System Operators (ENTSOG) and the International Association of Oil & Gas Producers Europe (IOGP Europe). Just like many of the corporations that are full members of the Expert Group, these lobby groups have well-documented histories of lobbying to weaken and delay EU climate laws, or of promoting the fossil fuel industry's favourite false solutions that delay or sideline the phase-out of fossil fuels. Documents obtained by Corporate Europe Observatory show that the IAG was created at the request of oil and gas majors like BP, Total, Shell and Eni (which now count among its members). Corporate executives made the demand to set up "a Task Force with company experts" during a series of meetings they had with Commission President von der Leyen during the first half of 2022. There is no justification for creating an Expert Group that excludes non-corporate expertise.

Countervailing expertise is always and without exceptions needed in order to secure high-quality outcomes of expert group deliberations. This is particularly the case for climate and energy policy-making, as fossil fuel companies have a proven record of undermining the needed progress. In its response to our complaint, the Commission states that it deems “the membership of the IAG fully justified considering the specific knowledge and expertise that is required for setting up a mechanism for demand aggregation and joint purchasing from scratch and on time for this year’s storage filling season – a process that ultimately benefits EU households and industries. Thus, our selection reflects the letter and spirit of the Commission’s horizontal rules on expert groups.” This response ignores the fact that the IAG has broader objectives than “setting up a mechanism for demand aggregation and joint purchasing”. The Commission’s response to our complaint lists four objectives [footnote 1], including the very open-ended objective (4): “to provide other input and advice relevant for the delivery of the REPowerEU objectives, within the remit of the missions of the EU Energy Platform.” The response also states that “the selected group of IAG members covers a wide variety of experts in the field, representing different stakeholders along the whole trading chain, such as energy suppliers, energy traders, and end energy consumers” and that “members represent both buyers (including industrial end users) and sellers of gas and their commercial interests vary greatly. This diversity in membership of the IAG allows the Commission to benefit from a balance of relevant know-how and to avoid conflicts of interest.” This argumentation makes a mockery of the requirement for balanced representation in the Commission’s horizontal rules on expert groups, which was clearly not intended to be limited to balance in terms of types of commercial interests (“their commercial interests vary greatly”), while excluding non-commercial interests and expertise. It also plays down the conflict of interest of including companies that buy and sell gas, as well as asking those with a direct commercial interest in the sale of gas as to where the EU should buy it from. The Commission’s response to our complaint implicitly admits the flaws of their approach, with the announcement that it would “organise a dedicated meeting with other stakeholders, such as NGOs and academics.” Such a meeting clearly is not an adequate solution to the error of establishing an industry-only advisory group. The meeting, which took place on July 4 more resembled a one-sided information-session than a genuine effort to gather input and advice relevant for RePowerEU. Notes 1: The objectives of the IAG are (1) to provide feedback on options issued by the Commission for demand aggregation and joint purchasing; (2) to provide insights on how to ensure that the Union’s goal of reducing dependency on Russian gas supplies can be achieved in line with the timeline provided by the REPowerEU communication, with a particular focus on the diversification of gas supply; (3) to exchange market data and information to support outreach activities, to leverage the European buying power for the benefit of European

consumers; and (4) to provide other input and advice relevant for the delivery of the REPowerEU objectives, within the remit of the missions of the EU Energy Platform.

What, in your view, should the institution or body do to put things right?:

To put things right the Commission should, as mentioned in our complaint: 1) immediately dissolve the IAG 2) initiate an overhaul of the Commission's rules and practices around the creation of formal or informal advisory groups in order to prevent a repetition in the future. 3) create an EU task force of climate and social advisors, including NGOs, energy poverty groups and trade unions, to advise the EU on how to meet its energy needs and deliver REPowerEU while respecting the climate and social rights.